

**TOWNSHIP OF SPRING
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 448

AN ORDINANCE OF THE TOWNSHIP OF SPRING, BERKS COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF CHAPTER XXXII OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF SPRING; PROVIDING FOR PURPOSES AND RELATED TO THE ADOPTION OF THE AMENDMENTS; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF COMMUNICATIONS TOWERS, COLLOCATED ANTENNAS, AND SMALL COMMUNICATIONS FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of the Township of Spring, Berks County, Commonwealth of Pennsylvania, (“Township”) and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I: Amendment of Certain Use Provisions

Chapter XXXII, Section 305(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION II: Amendment of Certain Use Provisions

Chapter XXXII, Section 306(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION III: Amendment of Certain Use Provisions

Chapter XXXII, Section 307(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION IV: Amendment of Certain Use Provisions

Chapter XXXII, Section 316(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION V: Amendment of Certain Use Provisions

Chapter XXXII, Section 317(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION VI: Amendment of Certain Use Provisions

Chapter XXXII, Section 318(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION VII: Amendment of Certain Use Provisions

Chap Chapter XXXII, Section 319(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION VIII: Amendment of Certain Use Provisions

Chapter XXXII, Section 320(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION IX: Amendment of Certain Use Provisions

Chapter XXXII, Section 321(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION X: Amendment of Certain Use Provisions

Chapter XXXII, Section 322(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION XI: Amendment of Certain Use Provisions

Chapter XXXII, Section 323(B) of the Township Code of Ordinances is hereby amended by removing “Collocated Antennas mounted on an existing public utility transmission tower, building or other structure, and communication equipment buildings” and adding “Collocated Antenna” and “Small Communication Facility” as uses permitted by right.

SECTION XII: Adoption of New Communications Facilities Provisions

The terms, conditions, and provisions of Chapter XXXII, Section 324(B)(28) and 324(B)(29) of the Township of Spring Code of Ordinances are hereby repealed and replaced with the following terms, conditions and provisions, and all subsequent existing Section numbers, 324(B)(30) through 324(B)(108) are hereby amended and renimbered sequentially as Sections 324(B)(31) through 324(B)(109):

(28) Collocated Antennas

A. Purposes.

(1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of communications facilities in the Township. While the Township recognizes the importance of communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to promote public safety and to minimize the adverse visual effects of such facilities, especially in historic areas, through the standards set forth in the following provisions.

(2) By enacting these provisions, the Township intends to:

- a. Accommodate the need for communications facilities while regulating their design, location, and number so as to ensure the provision of necessary services;
- b. Provide for the managed development of communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
- c. Establish procedures for the design, siting, construction, installation, maintenance and removal of collocated antennas, communications towers, and small

communications facilities in the Township, including facilities both inside and outside the public rights-of-way;

- d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small cells, and other communications facilities;
- e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that wireless carriers collocate their antennas and related equipment on existing towers or infrastructure;
- f. Protect and preserve historically significant structures and properties located in the Township; and
- g. Promote the health, safety and welfare of the Township's residents.

B. Definitions. The following terms are defined for purposes of this Section alone. All other defined terms, which may also be applicable to this Section, are contained within Section 202.

ANTENNA - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

APPLICANT - Any entity or person that applies for a building permit, for zoning approval and/or for permission to use the Public Street ROW for a Communications Facility, within the Township.

COLLOCATION - The mounting of one or more Communications Facilities (as defined herein below), including Antenna, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a Communications Facility on that structure.

COLLOCATED ANTENNA - A Communications Facility (as defined herein below) collocated on an existing structure, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower or pole. This term includes the replacement of an existing structure with a structure of the same or lesser height, that is required to support the increased weight resulting from the addition of the proposed Communications Facility. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

COMMUNICATIONS FACILITY - The Antennas, nodes, control boxes, Communications Towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

COMMUNICATIONS TOWER - Any structure that is used for the primary purpose of supporting one or more Antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and related equipment.

CONTEXT SENSITIVE - A design concept applicable to Communication Facilities, in which the design of the facilities is complementary to and integrated with the aesthetics of its adjacent environs, which may range in scope, at the discretion of the Township, from the immediate area surrounding the item in question to the Township as a whole. Also may be referred to as “Context Sensitivity”. An example of a Communication Facility that does not exhibit Context Sensitivity would be the use of a silo for stealth purposes within an urbanized or commercial area.

EMERGENCY - A condition, as determined by the Township or its designee, that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Public Street ROW to be unusable and result in loss of the services provided.

FCC - Federal Communications Commission.

HEIGHT OF COMMUNICATIONS TOWER - The vertical distance measured from the ground level, including any base pad, to the highest point on a Communications Tower, including any Antennas mounted on the tower and any other appurtenances, such as lightning rods, lighting equipment, etc.

PUBLIC STREET RIGHT-OF-WAY or PUBLIC STREET ROW– Land reserved for the public for use as a public thoroughfare, excluding alleys and private thoroughfares.

RELATED EQUIPMENT – Any equipment serving or being used in conjunction with a Communications Facility or Wireless Support Structure, including but not limited to, transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

SMALL COMMUNICATIONS FACILITY - A Communications Facility that meets the following criteria:

- (1) The structure on which a Communications Facility is mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or

(iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of the Communications Facility; and

(2) Each Antenna associated with the deployment (excluding Related Equipment) is no more than three cubic feet in volume; and

(3) All Related Equipment associated with the facility (excluding Antennas) are cumulatively no more than 28 cubic feet in volume.

(4) The Communications Facility does not require Antenna structure registration under 47 CFR Part 17;

(5) The Communications Facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The Communications Facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

STEALTH TECHNOLOGY - Camouflaging methods applied to Communications Facilities and Related Equipment which render them more visually appealing or blend the proposed Communications Facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, flagpoles, windmills, silos and light poles. Use of stealth technology shall be Context Sensitive.

SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE - A modification to an existing Communications Facility substantially changes the physical dimensions of a Wireless Support Structure (defined below) if it meets any of the criteria set forth in 47 CFR § 1.6100, as amended.

WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)

WIRELESS - Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS SUPPORT STRUCTURE - A freestanding structure, such as a Communications Tower or any other support structure that is capable of supporting the placement or installation of a Communications Facility.

C. General and Specific Requirements for Collocated Antennas

(1) The following regulations shall apply to all Collocated Antennas that do not meet the definition of a Small Communications Facility:

- a. Permit required. The installation, construction and operation of a Collocated Antenna shall require a building permit from the Township.
- b. Standard of care. All Collocated Antennas shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the Pennsylvania Uniform Commercial Code, American National Standards Institute (ANSI) Code, and National Electrical Code. At all times, Collocated Antennas shall be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- c. Permitted by right in certain zoning districts pursuant to regulations. Collocated Antennas are permitted by right outside the Public Street ROW pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:

- (1) Rural Holding Area (RHA) District
- (2) Rural Conservation (RC) District
- (3) Rural/Suburban (RS) District
- (4) Planned Highway Interchange (PHI) District
- (5) Planned Highway Transitional (PHT) District
- (6) Planned Office/Business (POB) District
- (7) Planned Business and Residential (PBR) District
- (8) Planned Industry/Business (PIB) District
- (9) Extractive Industry (EI) District
- (10) Manufacturing and Industrial (MI) District
- (11) Fuel Storage (FS) District

- d. Permitted by special exception in certain zoning districts pursuant to regulations. Collocated Antennas are permitted by special exception outside the Public Street ROW pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:

- (1) Low Density Suburban (LDS) District
- (2) Moderate Density Suburban (MDS) District
- (3) Suburban/Semi-urban (SS) District
- (4) Urban (U) District
- (5) Penn Avenue Mixed Use (PMU) District
- (6) Penn Avenue Commercial (PAC) District
- (7) Neighborhood Convenience (NC) District

- e. Historic areas. No Collocated Antenna may be located upon any property, building, or structure, or within one-hundred (100) feet of such property, building or structure, that is listed on the National or Pennsylvania Registers of Historic Places, identified by the Berks Nature, or its successor or assign, included in the list of historic buildings in the Township's Comprehensive Plan, or that is deemed by the Township to be of specific historical significance.
- f. Wind. All Collocated Antennas, Wireless Support Structures, or other facilities regulated by this Section, shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended).
- g. Aviation safety. Collocated Antennas shall comply with all federal and state laws and regulations concerning aviation safety.
- h. Public safety communications and other communications services. Collocated Antennas shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- i. Radio frequency emissions. A Collocated Antennas shall not, by itself or in conjunction with other Collocated Antennas and/or Communications Towers, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The Applicant shall provide certification of the Collocated Antennas compliance with the RF emissions standards and regulations of the FCC to the Code Enforcement Officer as part of a complete application.
- j. Interference. Collocated Antennas shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties in violation of federal rules.
- k. Removal.
 - (1) Prior to the issuance of a building permit for a Collocated Antenna the owner or operator shall post financial security in a form acceptable to the Township in a sufficient amount to cover the facility removal and site cleanup. Exemption: a commercial communications tower or antenna necessary for and clearly used for emergency communications by a police department, fire company, emergency medical service and other similar

public safety organizations is exempt from the requirements of this Section.

(2) In the event that use of a Collocated Antennas is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Collocated Antennas, or portions of Collocated Antennas, shall be removed as follows:

(a) All abandoned or unused Collocated Antennas and Related Equipment shall be removed within sixty (60) days of the cessation of operations at the site unless a time extension is approved by the Township.

(b) If the Collocated Antenna or Related Equipment is not removed within sixty (60) days of the cessation of operations at a site, or within any longer period approved by the Township, the financial security may be utilized by the Township to remove the Collocated Antenna and/or Related Equipment. In this event, the Township shall provide written notice of such intended action to the Applicant and, after the expiration of thirty (30) days, the Collocated Antenna or Related Equipment may be removed by the Township. Furthermore, the Township reserves the right to the salvage value of any removed Collocated Antenna and/or Related Equipment, if such Collocated Antenna and/or Related Equipment are not removed by the owner within the specific timeframe enumerated in this Chapter.

l. Insurance. Each person that owns or operates a Collocated Antenna shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$3,000,000 per occurrence and property damage coverage in the minimum amount of \$3,000,000 per occurrence covering the Collocated Antenna.

m. Indemnification. Each person that owns or operates a Collocated Antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, officer, employees, agents, attorneys and engineers (individually and/or collectively the "Indemnities"), at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, public official, officers, agents, employees, attorneys, engineers or contractors arising out of, but not limited to, the review, approval, permitting, construction, installation, operation, maintenance or removal of the Collocated Antenna. Each person that owns or operates a Collocated Antenna shall defend any actions or proceedings against the Indemnities in which it is claimed that personal injury, including death, or property damage was caused by the review, approval, permitting, construction, installation, operation, maintenance or removal of a Collocated Antenna. The obligation to indemnify, hold harmless and defend

shall include, but not be limited to, the obligation to pay any and all costs, expenses for judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs and expenses of indemnification. Prior to the issuance of a building permit for such facilities the applicant shall be required to execute an indemnification agreement with the Township.

n. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- (1) The Collocated Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- (2) Maintenance shall be performed to ensure the upkeep of the Collocated Antenna, Communications Facility and Related Equipment in order to promote the safety and security of the Township's residents. At a minimum such maintenance shall be performed at such frequencies and in accordance with the recommendations of the manufacturer(s) of the Collocated Antenna, Communications Facilities and Related Equipment.
- (3) All maintenance activities shall utilize nothing less than the best, generally accepted available industry technology for preventing failures and accidents.

o. Removal and Replacement, or Modification.

- (1) To the extent permitted by law, the removal and replacement of Collocated Antennas, Communications Facilities and/or Related Equipment for the purpose of upgrading or repairing the Collocated Antenna, Communications Facilities and/or Related Equipment is permitted, so long as such repair or upgrade does not Substantially Change the overall size of the Wireless Support Structure or the numbers of Collocated Antennas.
- (2) Any modification to a Collocated Antenna, Communications Facilities and/or Related Equipment shall require notice to be provided to the Township, and possible supplemental permit approval to the original permit or authorization.

D. Collocated Antennas Falling Under the Wireless Broadband Collocation Act

- (1) In addition to the regulations enumerated in Section 324(B)(28)(C)(1), the following regulations shall apply to Collocated Antennas that fall under the Pennsylvania Wireless Broadband Collocation Act:

- a. Permit required. Applicants proposing changes to an existing Communications Tower, which do not Substantially Change the dimensions of the existing, permitted Wireless Support Structure or otherwise fall under the WBCA, shall obtain a building permit from the Township. In order to be considered for such a permit, the Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
- b. Timing of approval for applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a Collocated Antenna that falls under the WBCA is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the Applicant in writing of such decision.
- c. Related Equipment. New ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or a residential zoning district.
- d. Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Collocated Antenna or \$1,000, whichever is less. Such permit fees may be amended by Resolution from time to time.

E. Collocated Antennas That Do Not Fall Under the Wireless Broadband Collocation Act

- (1) In addition to the regulations enumerated in Section 324(B)(28)(C)(1), the following regulations shall apply to Collocated Antennas that do not fall under the Pennsylvania Wireless Broadband Collocation Act and do not meet the definition of a Small Communications Facility:
 - a. Prohibited on certain structures. No Collocated Antenna shall be located on Single-Family Detached Dwellings, Two-Family Semidetached Dwellings, Two-Family Detached Dwellings, Single-Family Attached Dwellings, Garden Apartments or other residential structures.
 - b. Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Collocated Antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these Collocated Antenna provisions. The Applicant and/or owner of the Collocated Antenna shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
 - c. Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the

application for approval of a Collocated Antenna, as well as related inspection, monitoring and all other related costs. Such permit fees may be amended by resolution from time to time.

- d. Requirement to Collocate. All Antennas shall be collocated on existing Wireless Support Structures that have been previously approved by the Township to support one or more Collocated Antennas subject to the following conditions:
 - (1) The total height of any Wireless Support Structure and mounted Collocated Antenna shall not exceed twenty (20) feet above the maximum height of the existing structure.
 - (2) In accordance with industry standards, all Collocated Antenna Applicants must submit documentation to the Township justifying the total height of the Collocated Antenna. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (3) If the Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping shall be required to screen as much of the equipment building as possible. A planting screen of high intensity in accordance with the provisions of Section 405(I) shall surround the site.
- e. Security fence. A security fence with a minimum height of eight (8) feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building, or any structure housing Related Equipment, shall not interfere with the parking or vehicular circulations on the site for the principal use.
- f. Non-commercial usage exemption. Township residents utilizing satellite dishes and antennas for the purpose of maintaining television, phone, radio and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance. Amateur radio operators are exempt from the regulations enumerated in this Section of the ordinance.
- g. Design regulations. Collocated Antennas shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be Context Sensitive and shall be subject to the approval of the Township.
- h. Inspection. The Township reserves the right to inspect any Collocated Antenna to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon

which a Collocated Antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(29) Communications Towers

A. Purposes and Findings of Fact. See Section 324(B)(28)(A), above.

B. Definitions. See Section 324(B)(28)(B), above.

C. General and Specific Requirements for All Communications Towers.

(1) The following regulations shall apply to all Communications Towers that do not meet the definition of a Small Communications Facility.

a. Standard of care. All Communications Towers shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the Pennsylvania Uniform Construction Code, American National Standards Institute (ANSI) Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. At all times, Communications Towers shall be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

b. Permitted by special exception outside the Public Street ROW in certain zoning districts pursuant to regulations. Communications Towers are permitted by special exception pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:

- (1) Rural Holding Area (RHA) District
- (2) Rural Conservation (RC) District
- (3) Rural/Suburban (RS) District
- (4) Planned Highway Interchange (PHI) District
- (5) Planned Highway Transitional (PHT) District
- (6) Planned/Office Business (POB) District
- (7) Planned Industry/Business (PIB) District
- (8) Extractive Industry (EI) District
- (9) Manufacturing and Industrial (MI) District
- (10) Fuel Storage (FS) District

c. Special exception process and required information. In addition to demonstrating compliance with all applicable provisions of the zoning ordinance, the applicant shall provide the following information:

- (1) Notice. Included with the application for special exception approval for a Communications Tower the Applicant shall provide a list of property owners' names and mailing addresses for all owners of every property within five hundred (500) feet of the proposed facility.
 - (2) Prior to the Board's consideration of a special exception application authorizing the construction and installation of a Communications Tower, it shall be incumbent upon the Applicant for such special exception approval to prove to the reasonable satisfaction of Board that the Applicant cannot adequately extend or infill its communications system by the use of Communications Facilities installed on existing structures, such as utility poles or their appurtenances, buildings, and other available tall structures. The Applicant shall further demonstrate that the proposed Communications Tower must be located where it is proposed in order to serve the Applicant's service area and that no other less intrusive viable alternative location exists.
 - (3) The special exception application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the Applicant, the power in watts at which the Applicant transmits, and any relevant related tests conducted by the Applicant in determining the need for the proposed site and installation.
 - (4) The special exception application shall be accompanied by documentation demonstrating that the proposed Communications Tower complies with all state and federal laws and regulations concerning aviation safety.
 - (5) Where the Communications Tower is located on a property with another principal use, the Applicant shall present documentation to the Board that the owner of the property has granted an easement for the proposed Communications Tower and that adequate vehicular access will be provided to the facility.
 - (6) The special exception application shall be accompanied by documentation demonstrating that the proposed Communications Tower complies with all applicable provisions in this section.
- d. Communications Towers shall not be located in, or within seventy-five (75) feet of an area in which all utilities are located underground.
- e. Engineer inspection. Prior to the Board's issuance of special exception approval authorizing construction and erection of a Communications Tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed Communications Tower's ability to meet the

structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception proceedings before the Board, or at a minimum, be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.

- f. Visual appearance. Communications Towers shall employ Stealth Technology, which shall be Context Sensitive and may include the tower portion to be painted silver, or another color approved by the Board, or to have a galvanized finish. All Communications Towers and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district and/or surrounding area involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and construction principles, practices and techniques. Any utilities extending to the Communications Tower shall be placed underground.

- g. Collocation and siting. An application for a new Communications Tower shall demonstrate that the proposed Antenna and Related Equipment cannot be collocated or accommodated on an existing or approved structure or building. The Board may deny an application to construct a new Communications Tower if the Applicant has not made a good faith effort to mount the Antenna on an existing structure. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install a Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (1) The proposed antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - (2) The proposed antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - (3) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.

- (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- h. Permit required for modifications. To the extent permissible under applicable state and federal law, any Applicant proposing the modification of an existing Communications Tower, which increases the overall height of such Wireless Support Structure, shall first obtain a building permit from the Township. Non-routine modifications shall be prohibited without such permit.
- i. Gap in coverage or capacity. An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of Communications Tower being proposed is the least intrusive means by which to fill that gap. The existence or non-existence of a gap in wireless coverage or capacity shall be a factor in the Board's decision on an application for approval of Communications Tower.
- j. Sole use on a lot. A Communications Tower shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the Township Zoning Code.
- k. Combined with another use. A Communications Tower may be permitted on a property with an existing use (except a property with an existing residential use), or on a vacant parcel (except in a residential zoning district), subject to the following conditions:
 - (1) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the Communications Tower.
 - (2) Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall contain any additional area that may be necessary to comply with all setback requirements and separation distances from other structures as well as to safely accommodate the Communications Tower and guy wires, the equipment building, security fence, and buffer planting.
- l. Minimum setbacks and separation distance from structures. The minimum distance between the base of a Communications Tower and any adjoining property line, street right-of-way line or any Principal Structure shall be equal to one hundred percent (100%) of the height of the Communications Tower. The underlying lot must be large enough to accommodate Related Equipment, storm water runoff mechanisms, and all other features typically found within the immediate area of a Communications Tower.
- m. Minimum Lot or Leased Area. If property is being subdivided and/or conveyed for the purpose of the construction/installation of a Communications Tower, the

minimum lot area shall comply with the requirements for the applicable zoning district. If the property is being leased for a Communications Tower for a lease term (including all options and extensions) of less than thirty (30) years, a Communications Tower may occupy a leased area less than the minimum lot area for the zoning district. If the lease term is thirty (30) years or greater (including all options and extensions) the Communications Tower must occupy a lease area of not less than the minimum lot area for the zoning district, provided proof of the payment of transfer taxes is provided to the Township.

n. Design regulations.

- (1) The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be Context Sensitive and shall be subject to the approval of the Board.
- (2) To the extent permissible by law, any height extensions to an existing Communications Tower shall require prior approval of the Township.
- (3) Any proposed Communications Tower shall be designed structurally, electrically, and in all respects, to accommodate both the Applicant's Antennas and comparable Collocated Antennas, for the maximum amount of future users based on the size of the proposed Communications Tower.
- (4) All Communications Towers shall be equipped with an anti-climbing device approved by the manufacturer.
- (5) All Communications Towers that include generators (permanent or emergency), or otherwise requiring equipment that utilizes combustible fuels, must obtain an Operational Permit from the Fire Marshal, and pay all associated fees, prior to operation. All such generators and equipment shall be inspected on an annual basis.

o. Surrounding environs.

- (1) The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Communications Tower shall be preserved to the maximum extent possible.
- (2) The Applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation of the Communications Tower, and anchors for guy wires, if used.

p. Fence/screen.

- (1) A security fence with a minimum height of eight (8) feet shall completely surround any Communications Tower, as well as guy wires, or any building housing Related Equipment.
- (2) The Applicant shall provide a buffer yard and planning screen of high intensity in accordance with the provisions of Section 405(I).

q. Related Equipment.

- (1) Ground-mounted Related Equipment associated with, or connected to, a Communications Tower shall be placed underground or screened from public view using Stealth Technologies, as described herein.
- (2) All Related Equipment shall be architecturally designed to blend into the environment in which it is situated and shall meet the minimum setback requirements of the underlying zoning district.

r. Access road. For each Communications Tower, an access road, turnaround space and parking area shall be provided to ensure adequate emergency and service access. The access road shall be a dust-free all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the Communications Tower owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

s. Parking. For each Communications Tower, two off-street parking spaces shall be provided.

t. Inspection. The Township reserves the right to inspect any Communications Tower to ensure compliance with the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Communications Tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

u. Additional Collocated Antennas. As a condition of approval for all Communications Towers, the Applicant shall provide the Township with a written commitment that it will allow other service providers to collocate additional Communications Facilities on Communications Towers where technologically and economically feasible. To the extent permissible under federal and state law, the owner of a Communications Tower shall not install any

additional Collocated Antennas without obtaining the prior written approval of the Township.

- v. Wind. All Communications Tower structures shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222), as amended.
- w. Height. Any Communications Tower shall be designed at the minimum functional height. The maximum height of any new Communications Tower outside the Public Street ROW shall be one hundred seventy-five (175) feet. Communications Towers in the Public Street ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two (2) block radius of the proposed facility. No Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The Applicant shall demonstrate that the proposed Communications Tower is the minimum height necessary for its service area.
- x. Related Equipment. Either one single-story wireless communications equipment building not exceeding one hundred fifty (150) square feet in area, or up to five metal boxes placed on a concrete pad not exceeding ten (10) feet by fifteen (15) feet in area housing the receiving and transmitting equipment, may be located on the site for each unrelated company sharing space on the Communications Tower.
- y. Public safety communications and other communications services. No Communications Tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties. Communications Towers shall be designed and constructed to accommodate the future addition of municipal communications facilities. Prior to issuance of a building permit the applicant shall demonstrate compliance with this requirement and shall describe any necessary steps for future addition of municipal communications facilities.
- z. Maintenance. The following maintenance requirements shall apply:
 - (1) Unless otherwise required in this Section, 324(B)(29), any Communications Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Maintenance shall be performed to ensure the upkeep of the Communications Tower in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents. At a minimum such maintenance shall

be performed at such frequencies and in accordance with the recommendations of the manufacturer(s) of the Communications Tower and Related Equipment.

- aa. Radio frequency emissions. A Communications Tower shall not, by itself or in conjunction with other Communications Towers or Collocated Antennas, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The Applicant shall provide certification of the Communications Tower's compliance with the RF emissions standards and regulations of the FCC to the Code Enforcement Officer as part of a complete application
- bb. Interference. Communications Towers shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties in violation of federal rules.
- cc. Historic buildings or districts. No Communications Tower (either inside or outside the Public Street ROW) may be located upon any property, or on a building, structure, or within one-hundred (100) feet of such property, building or structure, that is listed on the National or Pennsylvania Registers of Historic Places, identified by the Berks County Conservancy, included in the list of historic buildings in the Township's Comprehensive Plan, or that is deemed by the Township to be local historic significance.
- dd. Signs. All Communications Towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the Communications Tower shall be those required by the FCC, or any other federal or state agency.
- ee. Lighting. No Communications Tower shall be artificially lighted, except as required by law. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Automatic lighting is prohibited and all lighting must be controlled manually by an on-site switch. The Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Manager.
- ff. Noise. Communications Towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

- gg. Aviation safety. Communications Towers shall comply with all federal and state laws and regulations concerning aviation safety.
- hh. Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the Communications Tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The Applicant and/or owner of the Communications Tower shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- ii. Timing of approval. Within thirty (30) calendar days of the date that an application for a Communications Tower is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within one hundred fifty (150) calendar days of the receipt of a fully completed application for the approval of a Communications Tower, the Township shall act upon such application and advise the Applicant in writing of its decision. This time period may be extended if mutually agreed upon by the Applicant and Township. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.
- jj. Nonconforming towers. Nonconforming Communications Towers, which at the effective date of this Chapter or subsequent amendments thereto become nonconforming, and are hereafter damaged, destroyed or partially destroyed by fire, explosion or by any means to an extent of seventy-five percent (75%) or more of the market value thereof immediately prior to such damage or destruction, shall not be repaired or restored to a nonconforming status, but shall be reconstructed and used only in conformity with the provisions of this Chapter
- kk. Removal.
 - (1) Prior to the issuance of a building permit for a Communications Tower the owner or operator shall post security in a form acceptable to the Township in a sufficient amount to cover the facility removal and site cleanup prior to the issuance of any permits to construct or use said facility. Exemption: a commercial communications tower or antenna necessary for and clearly used for emergency communications by a police department, fire company, emergency medical service and other similar public safety organizations is exempt from the requirements of this Section.
 - (2) In the event that use of a Communications Tower is planned to be discontinued, the owner shall provide written notice to the Township of

its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Communications Towers, or portions of Communications Towers, shall be removed as follows:

- (a) All unused or abandoned Communications Towers and Related Equipment shall be removed within sixty (60) days of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the Communications Tower and/or Related Equipment is not removed within sixty (60) days of the cessation of operations at a site, or within any longer period approved by the Township, the financial security may be utilized by the Township to remove the Communications Tower and/or Related Equipment. In this event, the Township shall provide written notice of such intended action to the Applicant and, after the expiration of thirty (30) days, the Communications Tower or Related Equipment may be removed by the Township. Furthermore, the Township reserves the right to the salvage value of any removed Communications Tower and/or Related Equipment, if such Communications Tower and/or Related Equipment are not removed by the owner within the timeframes enumerated in this Chapter.
 - (c) Any unused portions of Communications Towers, including antennas, shall be removed within sixty (60) days of the time of cessation of operations. The Township must approve all replacements of portions of a Communications Tower previously removed.
- ll. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Communications Tower, as well as related inspection, monitoring, and related costs. Such permit fees may be amended by resolution from time to time.
- mm. FCC license. Each person that owns or operates a Communications Tower shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- nn. Insurance. Each person that owns or operates a Communications Tower shall provide the Township with a certificate of insurance naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Communications Tower.

- oo. Indemnification. Each person that owns or operates a Communications Tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees (individually and/or collectively the “Indemnities”), arising out of, but not limited to, the review, approval, permitting, construction, installation, operation, maintenance or removal of the Communications Tower. Each person that owns or operates a Communications Tower shall defend any actions or proceedings against the Indemnities in which it is claimed that personal injury, including death, or property damage was caused by the review, approval, permitting, construction, installation, operation, maintenance or removal of the Communications Tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys’ fees, reasonable expert fees, court costs and all other costs of indemnification. Prior to the issuance of a building permit for such facilities the applicant shall be required to execute an indemnification agreement with the Township.
- pp. Engineer signature. All plans and drawings for a Communications Tower shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- qq. Financial security. Prior to receipt of a zoning permit for the construction or placement of a Communications Tower, the Applicant shall provide to the Township financial security sufficient to guarantee the construction of the Communications Tower. Said financial security shall remain in place until the Communications Tower is fully constructed.

(30) Small Communications Facilities. The following regulations shall apply to all Small Communications Facilities:

- A. Purposes and Findings of Fact. See Section 324(B)(28)(A), above.
- B. Definitions. See Section 324(B)(28)(B), above.
- C. Permit required. The installation, construction and operation of a Small Communications Facility shall require a building permit from the Township.
- D. Location and development standards.

(1) Small Communications Facilities are permitted by right in all Zoning Districts, both inside and outside the Public Street ROW pursuant to this zoning ordinance,

so long as they comply with all of the terms and conditions of this Zoning Ordinance.

- (2) All Small Communications Facilities shall comply with the Americans with Disabilities Act guidelines adopted by the Township and all applicable requirements of the Code of Ordinance, including but not limited to those relating to streets and sidewalks as established by Chapter 26 of the Township Code.

E. Collocation and siting.

- (1) An application for a Small Communications Facility requiring the installation of a new Wireless Support Structure shall demonstrate that the proposed Antenna and Related Equipment cannot be collocated or accommodated on an existing Wireless Support Structure. The Code Enforcement Officer may deny an application to construct a new Small Communications Facility if the Applicant has not made a good faith effort to mount the Small Communications Facility on an existing Wireless Support Structure. The Applicant shall demonstrate that it contacted the owners of existing structures within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install a Communications Facility on those structures, buildings, and towers and was denied for one of the following reasons:

- a. The proposed antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
- b. The proposed antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
- c. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
- d. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

- (2) If the Applicant's analysis shows that multiple feasible Collocation opportunities exist in the proposed coverage area, the Code Enforcement Officer shall have the right to direct the Applicant to install its Small Communications Facility at the site most preferred by the Township.

- F. Prohibited on certain structures. No Small Communications Facility shall be located on Single-Family Detached Dwellings, Two-Family Semidetached Dwellings, Two-Family Detached Dwellings, Single-Family Attached Dwellings, Garden Apartments or other residential structure.
- G. Standard of care. Any Small Communications Facility shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the National Electrical Safety Code, National Electrical Code, the structural standards of the American Association of State Highway and Transportation Officials, or to any other industry standard applicable to the structure. Any Communications Facility shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any Person or damage any property in the Township.
- H. Gap in coverage or capacity. An Applicant for a Small Communications Facility must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of Small Communications Facility being proposed is the least intrusive means by which to fill that gap.
- I. Wind and ice. All Small Communications Facilities shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour and ice in addition to the standards designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the Wireless Support Structure.
- J. Historic Properties. Small Communications Facilities may not be located upon any property, building, or structure, or within one-hundred (100) feet of such property, building or structure, that is listed on the National or Pennsylvania Registers of Historic Places, identified by the Berks County Conservancy its successors or assigns, included in the list of historic buildings in the Township's Comprehensive Plan, or that is deemed by the Township to be of specific historical significance.
- K. Interference. Small Communications Facilities shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties in violation of federal rules.
- L. Radiofrequency emissions. A Small Communications Facility shall not, by itself or in conjunction with other Communications Facilities, generate radiofrequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The Applicant shall provide certification of the Small Communications

Facility's compliance with the RF emissions standards and regulations of the FCC to the Code Enforcement Officer as part of a complete application.

- M. Time, place and manner. The Township or its authorized designee shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small Communications Facilities in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- N. Location. Small Communications Facilities and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township or its designee. No Related Equipment shall be placed on the ground within the public ROW. All Related Equipment shall be attached to the Wireless Support Structure at a height that will not interfere with pedestrian or vehicular traffic or parking.
- O. Minimum setbacks and separation from structures. The minimum distance between the base of a Small Communications Facility, located outside the Public Street ROW and requiring the installation of a new or replacement Wireless Support Structure, and any adjoining property line, street right-of-way line or any principal structure shall be equal to one hundred percent (100%) of the height of the Small Communications Facility. The Township or its designee may waive compliance with this requirement upon showing by the Applicant that a lesser setback will have no negative effect on public safety.
- P. Graffiti. Any graffiti on the Small Communications Facility or on any Related Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification to the owner of the Small Communications Facility by the Code Enforcement Officer.
- Q. Design standards. All Small Communications Facilities shall be designed to meet the requirements of the Township "*Small Communications Facility Design Manual*," which Design Manual shall be adopted by, and may be revised from time to time by Resolution of the Township. A copy of which is kept on file at the Township Code Enforcement Office.
- R. Timing of Approval.
 - (1) Within ten (10) calendar days of the date that an application for a Small Communications Facility is filed with the Code Enforcement Officer, the Code Enforcement Officer shall notify the Applicant in writing of any information that may be required to complete such application.
 - (2) Within sixty (60) days of receipt of an application for Collocation of a Small Communications Facility on a preexisting Wireless Support Structure, and subject to applicable tolling, the Code Enforcement Officer shall make a final decision on whether to approve the application and shall notify the Applicant in writing of such decision.

- (3) Within ninety (90) days of receipt of an application for a Small Communications Facility requiring the installation of a new Wireless Support Structure, and subject to applicable tolling, the Code Enforcement Officer shall make a final decision on whether to approve the application and shall notify the Applicant in writing of such decision.

- S. Removal. Within ninety (90) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small Communications Facility in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small Communications Facility when the Township, consistent with its police powers, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (2) The operations of the Township or other governmental entity in the Right-of-Way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency as determined by the Township

- Q. Insurance. Each person that owns or operates a Small Communications Facility shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$3,000,000 per occurrence and property damage coverage in the minimum amount of \$3,000,000 per occurrence covering the Small Communications Facility.

- R. Indemnification. Each Person that owns or operates a Small Communications Facility shall, at its sole cost and expense, agree to indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for Personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Small Communications Facility. Each Person that owns or operates a Small Communications Facility shall defend any actions or proceedings against the Township in which it is claimed that Personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Small Communications Facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- S. Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township’s actual costs in reviewing and processing the application for approval of a Small Communications Facility, as well as inspection, monitoring, and all other related costs. Such permit fees may be amended by resolution from time to time.

- T. Reimbursement for ROW use. In addition to permit fees as described in this section, every Small Communications Facility in the Public Street ROW is subject to the Township’s right to fix annually a fair and reasonable fee to be paid for use and occupancy of the Public Street ROW. Such compensation for Public Street ROW use shall be directly related to the Township’s actual Public Street ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other Public Street ROW management activities by the Township. The owner of each Small Communications Facility shall pay an annual fee to the Township to compensate the Township for the Township’s costs incurred in connection with the activities described above. Such fees may be amended by resolution from time to time.

SECTION XIII. Miscellaneous

- A. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.

- B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.

- C. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of the Township of Spring.

ENACTED AND ORDAINED this 14th day of June, 2021.

June 14, 2021
Date


Chairman